

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

JAIDEN BUCHAN,

Plaintiff,

v.

THE MILTON HERSHEY SCHOOL, *et al.*,

Defendants.

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1:16-cv-02557-CCC

(Conner, C.J.)

ORDER

AND NOW, this ____ day of _____, 2017, upon consideration of Defendants The Milton Hershey School, and The Hershey Trust Company's Federal Rule of Civil Procedure 12(b)(6) Motion to Dismiss Plaintiff Jaiden Buchan's ("Plaintiff") First Amended Complaint (ECF Doc. No. 17), and any response thereto, it is hereby **ORDERED** that:

1. The Motion is **GRANTED**;
2. Plaintiff's Amended Complaint is **DISMISSED**; and
3. The Court declines to exercise pendent jurisdiction over Plaintiff's state law claims.

Christopher C. Conner, Chief Judge

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**DEFENDANTS THE MILTON HERSHEY SCHOOL, AND THE HERSHEY
TRUST COMPANY’S FEDERAL RULE OF CIVIL PROCEDURE 12(b)(6)
MOTION TO DISMISS PLAINTIFF’S FIRST AMENDED COMPLAINT**

Pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure, Defendants The Milton Hershey School (“MHS” or the “School”), and The Hershey Trust Company (the “Trust”), as trustee of the Milton Hershey School (identified in the caption and Amended Complaint as the “Hershey Trust Company, as Trustee of the Milton Hershey School Trust”) (collectively, “Defendants”), hereby move to dismiss Plaintiff Jaiden Buchan’s (“Plaintiff”) Amended Complaint (ECF Doc. No. 17), based on its failure to state a claim upon which relief can be granted.

The reasons supporting this Motion are set forth in the Memorandum of Law in Support of this Motion, which will be filed in accordance with Local Rule 7.5, and which is incorporated here by reference.

WHEREFORE, Defendants respectfully request that this Court dismiss Plaintiff's Amended Complaint with prejudice.

Respectfully submitted,

ELLIOTT GREENLEAF, P.C.

/s Jarad W. Handelman

Jarad W. Handelman, Esquire (PA 82629)

Kyle M. Elliott, Esquire (PA 306836)

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*Counsel for Defendants The Milton Hershey
School, and The Hershey Trust Company*

Dated: May 15, 2017

CERTIFICATION OF NON-CONCURRENCE

Pursuant to Local Civil Rule 7.1, undersigned counsel certifies that counsel for Plaintiff Jaiden Buchan does not concur with this Motion.

Respectfully submitted,

ELLIOTT GREENLEAF, P.C.

/s Jarad W. Handelman

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*Counsel for Defendants The Milton Hershey
School, and The Hershey Trust Company*

Dated: May 15, 2017

CERTIFICATE OF SERVICE

I, Kyle M. Elliott, Esquire, hereby certify that I caused the foregoing Rule 12(b)(6) Motion to be filed electronically with the Court, where it is available for viewing and downloading from the Court's ECF system, and that such electronic filing automatically generates a Notice of Electronic Filing constituting service of the filed document upon all counsel of record, including:

Matthew B. Weisberg, Esquire
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7 S. Morton Avenue
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Counsel for Plaintiff Jaiden Buchan

/s Kyle M. Elliott
Kyle M. Elliott, Esquire

Dated: May 15, 2017